

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 684

WORK PROGRAMS

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Historical Note. Subchapter 2 is based substantially upon chapter 17-646 [Eff 8/1/90; R 3/19/93 ]  
Subchapter 3 is based substantially upon chapter 17-716, subchapter 5 [Eff 7/19/82; am 10/1/83; am 3/1/85; am 10/26/87; am 4/28/88; R 3/19/93 ] Subchapter 4 is based substantially upon chapter 17-716, subchapter 10 [Eff 10/26/87; R 3/19/93 ]

## SUBCHAPTER 1

### PURPOSE

§17-684-1 Purpose. The purpose of this chapter is to:

- (1) Establish the requirements for participation of AFDC applicants and recipients in the First-to-Work training program and the sanctions for failure or refusal to participate; and
- (2) Establish the requirements for work registration, participation of food stamp applicants and recipients in the food stamp employment and training (E & T) program and the sanctions for failure or refusal to participate. [Eff 3/19/93; am 1/25/97 ]  
(Auth: HRS §346-14) (Imp: 45 C.F.R. §250.30 to 250.36; 7 C.F.R. §273.3)

## SUBCHAPTER 2

### FIRST-TO-WORK TRAINING PROGRAM PARTICIPATION REQUIREMENTS

§17-684-2 Definitions. As used in this subchapter:

"Administrative hearing or fair hearing" means an administrative proceeding which affords an aggrieved person an opportunity to present an appeal before an impartial departmental representative for formal decision.

"Assistance unit" means persons whose needs, income, and assets are considered in determining eligibility and the amount of financial assistance payment.

"Component" means a structured regularly scheduled program activity for First-to-Work participants, including intake and orientation activities.

"Dependent child" means a needy child who qualifies for AFDC assistance.

"Full time employment" shall mean employment of eighteen (18) hours per week or seventy-eight (78) hours per month.

"Full-time student" means a dependent child under age nineteen enrolled in a public or private elementary or secondary school or in a program of an equivalent level of vocational or technical training.

"First-to-Work pool or unassisted group pool" means a group of people awaiting selection and assignment to a First-to-Work component.

"Mandatory participant or nonexempt individual" means an AFDC applicant or recipient who is required to participate in the First-to-Work program.

"Payment month" means the calendar month for which the department shall provide financial assistance.

"Voluntary participant" means an AFDC applicant or recipient who volunteers to participate in the First-to-Work program. [Eff 3/19/93; am 1/25/97; am 7/16/99] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§250.30 to 250.36)

§17-684-3 Participation requirement. (a) All applicants and recipients of AFDC assistance shall be required to participate in the First-to-Work program unless exempt under section 17-684-4.

(b) All individuals shall be allowed the opportunity to participate in the First-to-Work program on a voluntary basis.

(c) The department shall give first consideration to volunteers in determining the priority of participation within the target populations established by the First-to-Work program.

(d) The First-to-Work program shall accept referrals for participation as follows:

- (1) Applicants whose date of eligibility includes or precedes August 1990;
- (2) Recipients shall be referred at the time of their annual eligibility redetermination; and
- (3) A voluntary participant may request referral at any time.

(e) The mandatory participants who volunteer for participation shall be referred to the First-to-Work pool for priority selection by the First-to-Work program staff. [Eff 3/19/93; am 1/25/97 ] (Auth: HRS

§346-14) (Imp: HRS §346-14; 45 C.F.R. §§250.20, 250.30)

§17-684-4 Exemption from participation. (a) The department shall determine which AFDC applicants and recipients are exempt from participating in the First-to-Work program.

(b) An individual shall be exempt from participating in the First-to-Work program when the individual is:

- (1) A dependent child under sixteen years of age;
- (2) A dependent child sixteen years of age or older who is a full time student (except that such school attendance as a required First-to-Work activity for a child who loses this exemption will not requalify the child for the exemption);
- (3) Ill, incapacitated, or disabled a minimum of thirty days, as determined by the department on the basis of medical or other competent evidence;
- (4) Sixty years of age or older;
- (5) Needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a physician or a licensed or certified psychologist and no other appropriate member of the household is available to provide the needed care;
- (6) The parent or other relative of a child under six months of age who is personally providing care for the child. Only one parent or other relative in a case may claim this exemption;
- (7) A full-time volunteer serving under the Volunteers In Service To America (VISTA) program;
- (8) A domestic violence victim as defined in section 17-656.1-2, who also meets the criteria established in section 17-656.1-20(a) or (b); or
- (9) The other adult in an assistance unit that contains a domestic violence victim who meets the criteria established in section

17-656.1-20(a) or (b).

(c) An individual shall be considered a mandatory participant when the individual fails to cooperate in the exemption determination process or to provide the necessary verification to support the exemption claimed.

(d) The department shall reevaluate any exemption at such time as the condition is expected to end but no less frequently than at each annual eligibility redetermination.

(e) The department shall inform the individual of any change in the individual's exemption status.

(f) An individual who claims an exemption for providing care to an ill or incapacitated household member or to a child under six months of age, may transfer that exemption to another adult household member, except when the transfer is for the purpose of avoiding a sanction as specified in section 17-656.1-10 or 17-684-7. [Eff 3/19/93; am 1/25/97; am 12/12/98; am 7/16/99 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §§250.30, 250.31; HRS §346-29; Waiver Terms and Conditions, August 16, 1996, Administration for Children and Families - Department of Human Services)

§17-684-5 Participation requirement for education. (a) A custodial parent under twenty years of age who has not completed high school or an equivalent course of education shall be required to participate in educational activities prescribed by the First-to-Work program.

(b) A custodial parent means the parent who lives with the child.

(c) The custodial parent may claim an exemption from participation under section 17-684-4(b).

(d) The staff of the First-to-Work program shall administer the educational component and shall have the authority to require full time participation, as defined by the educational provider, in educational activities directed toward the attainment of a high school diploma or its equivalent.

(e) The First-to-Work program may require a parent to participate in an educational activity below the postsecondary level when the parent:

(1) Is under the age of twenty-five years; and

- (2) Has not completed high school or an equivalent course of education. [Eff 3/19/93; am 1/25/97; am 7/16/99 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §§250.32, 250.33; Waiver Terms and Conditions, August 16, 1996, Administration for Children and Families - Department of Human Services)

§17-684-6 Good cause determination. (a) Prior to imposing a sanction under section 17-684-7, the department shall determine whether there was good cause for the individual to:

- (1) Refuse or fail to participate in the First-to-Work program;
  - (2) Refuse to accept full time employment;
  - (3) Terminate full time employment; or
  - (4) Reduce earned income.
- (b) The department shall make a determination that good cause exists when:
- (1) The individual is the primary caretaker personally providing care for a child under six months of age;
  - (2) Child care for a child under six years of age is necessary for the individual to participate or continue participation in the First-to-Work program or accept employment and such care is not available;
  - (3) The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income shall be determined as follows:
    - (A) The department shall determine the family's total projected gross income. The total projected gross income shall include, but is not limited to, earnings, unearned income, and cash assistance that would have been received if the individual had not refused or terminated employment;
    - (B) The department shall determine the total amount of necessary work-related expenses which would have been incurred if the individual had not refused or terminated employment. Work related

expenses shall include, but is not limited to, mandatory payroll deductions, actual cost of child care, transportation expenses, and cost of meals;

- (C) The necessary work-related expenses shall be deducted from the family's total projected gross income;
- (D) The net income amount determined in subparagraph (C) shall be compared to the financial assistance the family received at the time the offer of employment is made; and
- (E) The department shall determine that there is a net loss of cash income when the net income amount determined in subparagraph (C) is less than the financial assistance the family received at the time the offer of employment is made; or

- (4) The employment that was terminated was less than full time.

(c) The department shall consider other circumstances beyond the individual's control in determining whether there was good cause. Examples of circumstances beyond the individual's control include, but shall not be limited to:

- (1) Illness of the individual which is verified by a medical statement from a licensed physician or psychologist;
- (2) The individual's presence is required on a continual basis due to the illness of another family member and is verified by a medical statement from a licensed physician or psychologist;
- (3) The individual is experiencing a family crisis or change of individual or family circumstances, such as death of an immediate family member, the family is currently homeless, or the family experienced a natural disaster;
- (4) Wages are below the state statutory minimum wage;

- (5) The working conditions would adversely affect or endanger the health and safety of the individual;
- (6) The conditions of employment violate state laws related to:
  - (A) Providing temporary disability insurance, worker's compensation, or health care benefits;
  - (B) Providing wages due on a timely basis; or
  - (C) Discriminatory practices;
- (7) The employment or First-to-Work component is beyond the individual's ability or there is a psychological or physical reason for the individual not being able to perform satisfactorily in the component or on the job;
- (8) Acceptance of an offer of employment that did not materialize;
- (9) Daily commuting time exceeds two hours per day or if normal commuting time is greater than two hours per day, the time exceeds the acceptable commuting standard by public or private means, whichever is available to the individual. The time spent in transporting dependents to a day care facility site shall not be considered;
- (10) Self-employment that did not produce income equivalent to eighteen hours of employment at the state minimum wage after business expenses are deducted;
- (11) The individual's assignment in the First-to-Work program was not within the scope of the employment plan developed between the individual and the department;
- (12) There is a breakdown in transportation arrangements with no ready access to alternate transportation that will allow total commuting time as specified in paragraph (9);
- (13) An individual's participation in a First-to-Work program component would interfere with the participant's unsubsidized employment;
- (14) The individual was required to participate in a First-to-Work component or work more hours

- than the maximum hours determined appropriate for the individual;
- (15) Acceptance of employment or participation in a First-to-Work component would result in the individual violating the individual's religious beliefs;
  - (16) Acceptance of employment, training, or education would require the individual to go to a site involved in a labor dispute. For example, there is a concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees;
  - (17) The individual ends a sporadic work relationship that does not offer a reasonable possibility for permanent full time employment and the individual is available to work full time; or
  - (18) The individual's failure was the result of being a victim of domestic violence as defined in section 17-656.1-2.

(d) When an exempt individual stops participating without good cause, the individual shall not be given priority to participate when there are other volunteers seeking to participate. [Eff 3/19/93; am 1/25/97; am 9/26/97; am 12/12/98; am 7/16/99 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §250.35; Pub. L. No. 104-193 (1996))

§17-684-7 Sanctions. (a) When a recipient who is required to participate in the First-to-Work program fails or refuses without good cause to participate in the First-to-Work program, refuses without good cause to accept full time employment, terminates full time employment without good cause, or reduces earnings without good cause, the entire household shall be sanctioned as follows:

- (1) For the first such failure to comply, until the failure to comply ceases;
- (2) For the second such failure to comply, until the failure to comply ceases, or two months, whichever is longer; and

- (3) For any subsequent failure to comply, until the failure to comply ceases, or three months, whichever is longer.
- (b) Failure to participate in the First-to-Work program includes failure to meet the requirements for intake, orientation, assessment, employability development planning, or case management.
- (c) For the purpose of determining that an individual's failure to comply has ceased, the individual shall:
  - (1) Participate in the First-to-Work activity to which the individual was previously assigned or an activity designed by the department's First-to-Work program staff to lead to full participation as follows:
    - (A) When the activity is the intake or orientation component, the individual shall complete the activity;
    - (B) When the activity is an assessment or case manager interview, the individual shall attend the interview;
    - (C) When the activity is related to a training, education, or work experience component the individual shall participate in the component for at least five days within a two week period;
    - (D) When the activity is designed by the department's First-to-Work program staff, the individual shall participate in the activity for the duration of the activity or five days within a two week period, whichever is less; or
  - (2) Accept employment of at least eighteen (18) hours per week or seventy-eight (78) hours per month, and actually work a minimum of eighteen (18) hours within a two week period; or
  - (3) Be eligible for an exemption from participation as specified in section 17-684-4, provided the individual has fulfilled the minimum sanction period requirement specified in subsection (a).
- (d) When the First-to-Work program staff determines there is no appropriate activity available,

the sanction shall end on the day the individual agrees to participate.

(e) During the participation periods described in subsection (c), the individual shall be eligible for child care and support services which the department determines are necessary for participation.

(f) When the individual successfully participates in a component described in subsection (c), the sanction shall terminate as of the day the individual agreed to participate in the component.

(g) When the individual accepts employment and has worked eighteen hours as described in subsection (c), the sanction shall terminate as of the day the individual accepted the offer of employment. [Eff 3/19/93; am 1/25/97; am 9/26/97; am 7/16/99 ] (Auth: HRS §346-14) (Imp: 45 C.F.R §250.34; Waiver Terms and Conditions, August 16, 1996, Administration for Children and Families - Department of Human Services)

§17-684-8 Administrative hearing. (a) The department shall provide the individual the opportunity to request an administrative hearing to contest a proposed sanction that will result in a suspension, reduction, discontinuance, or termination of financial assistance.

(b) The provisions of chapter 17-602.1 shall apply. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §250.36)

§17-684-9 Treatment of child care and work-related supportive service payments. (a) The child care and work-related supportive service payments received by the family from the First-to-Work program shall be disregarded in determining the family's eligibility and the amount of the family's financial assistance payment.

(b) Individuals who incur child care costs while participating in the First-to-Work program shall receive child care payments, provided they are otherwise eligible, through the First-to-Work program. [Eff 3/19/93; am 1/25/97 ] (Auth: HRS §346-14) (Imp: 45 C.F.R. §255.3)

§17-684-10 Repealed. [R 1/25/97 ]

§§17-684-11 to 17-684-20 (Reserved).

### SUBCHAPTER 3

#### FOOD STAMP WORK REGISTRATION REQUIREMENTS

§17-684-21 Definitions. As used in subchapters three and four:

"Department designee" means that public or private agency with whom the department of human services has entered into a formal written agreement to perform employment and training activities as outlined in the agreement for a set period of time for a specified sum of money.

"E & T" means employment and training program.

"E & T component" means a work experience, work training, educational or job search program that is designed to help food stamp recipients move promptly into unsubsidized employment.

"E & T mandatory participant" means a food stamp program applicant or recipient who is required to work register and who the branch determines should not be exempt from participation in an employment and training program.

"Gainful employment" means working for a minimum of thirty hours a week or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

"GED" means general educational development, which is equivalent to the conclusion of a high school education for which a diploma is given.

"Head of household" means the person designated in accordance with section 17-663-5. For households subject to section 17-663-5(c), the head of household shall be considered to be the principal wage earner. The principal wage earner shall be the household member, including excluded members, who was the greatest source of earned income in the two months prior to the month of violation. This provision

applies only if the earned income involved employment of twenty hours or more per week or provided weekly earnings at least equivalent to the federal minimum wage times twenty hours. No person of any age living with a parent or someone fulfilling the role of a parent shall be considered the head of household when the parent or someone fulfilling the role of a parent is registered for work, or is exempt from work registration requirements because the parent:

- (1) Is subject to and participating in any work requirement under Title IV of the Social Security Act;
- (2) Is receiving unemployment compensation (UIB);
- (3) Has registered for work as part of the unemployment compensation application process; or
- (4) Is employed or self-employed and working a minimum of thirty hours weekly, or is receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

If there is no principal source of earned income in the household, the household member documented in the casefile as the head of household at the time of the violation, shall be considered the head of household.

[Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 273.1, 273.3; Pub. L. No. 101-624 §1725 (1990))

§17-684-22 Work requirements. (a) No physically and mentally fit individual, aged sixteen through fifty-nine, who is not exempted in section 17-684-25 shall be eligible to participate in the food stamp program if the individual:

- (1) Refuses, at the time of application and every twelve months thereafter, to register for employment in a manner prescribed by the Food and Consumer Service (FCS) of the United States Department of Agriculture (USDA);
- (2) Refuses, without good cause to participate in the E & T program;
- (3) Refuses, without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of

the refusal, at a wage not less than the higher of the federal or state minimum wage;

- (4) Refuses, without good cause to provide the branch with sufficient information to allow the branch to determine the employment status or the job availability of the individual;
- (5) Voluntarily and without good cause quits a job; or
- (6) Voluntarily and without good cause reduces their work effort and, after the reduction, is working less than thirty hours per week.

(b) Individuals determined ineligible due to the provisions of subsection (a) shall be disqualified as followed:

- (1) For the first violation, the individual shall be ineligible until the later of:
  - (A) The date they comply with the work requirements; or
  - (B) One month.
- (2) For the second violation, the individual shall be ineligible until the later of:
  - (A) The date they comply with the work requirements; or
  - (B) Three months.
- (3) For the third or subsequent violation, the individual shall be ineligible until the later of:
  - (A) The date they comply with the work requirements; or
  - (B) Six months.

(c) For the purposes of subsection (a), the department shall use the definitions established by the FCS of the USDA for:

- (1) Good cause;
- (2) Voluntary quit; and
- (3) Reduced work effort.

(d) If a household is eligible for expedited service, the applicant and those household members who must register for employment shall do so prior to being certified under the expedited service criteria. However, the branch shall postpone the registration of other household members if it cannot be accomplished within the expedited service time frames. The branch may accomplish registration of other household members by calling the household or by requesting that the

applicant complete the work registration forms for the other household members to the best of the members ability.

(e) Household members shall be considered to have registered when an identifiable work registration form is submitted to a branch office.

(f) The registration form need not be completed by the member required to register. Any household member or an authorized representative may complete the work registration form. [Eff 3/19/93; am 2/7/94; am 10/28/96 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.7(a), 273.7(c), 273.2(i)(4)(i); Pub. L. No. 104-193 (1996))

§17-684-23 REPEALED. [R 10/28/96 ]

§17-684-24 Work registration requirements. Work registrants shall:

- (1) Participate in an employment and training program if assigned by the branch;
- (2) Respond to a request from the branch or the department designee for supplemental information regarding employment status or availability for work;
- (3) Report to an employer to whom referred by the branch or the department designee if the potential employment meets the suitability requirements described in section 17-684-56; and
- (4) Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R §273.7(e))

§17-684-25 Determination of work registration exemptions. (a) The branch shall determine which household members meet the exemptions to the work registration requirements at the time of initial certification, recertification, change in employment status, or the required twelve-month registration period.

(b) Work registration exemptions shall be verified prior to certification only if inconsistent with other information on the application, previous applications, or other documented evidence known to the branch.

(c) The following general categories of individuals shall be exempt from work registration when applicable:

- (1) Exemption based on age;
- (2) Caretaker;
- (3) Recipients of unemployment compensation;
- (4) Physically or mentally unfit persons;
- (5) Drug addicts and alcoholics;
- (6) Students;
- (7) Individuals fulfilling work requirements under any program under Title IV of the Social Security Act, including JOBS;
- (8) Employed persons; or
- (9) Self-employed persons. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b))

§17-684-26 Age exemption. (a) The following individuals shall be exempt from work registration by age:

- (1) A person younger than sixteen years of age; or
- (2) A person sixty years of age or older; or
- (3) A person age sixteen or seventeen who is not a head of household or who is attending school or enrolled in an employment training program on at least a half time basis.

(b) If a child's sixteenth birthday is within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

(c) If questionable, age may be verified through birth certificates or other documentation presented by the household. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-27 Caretaker exemption. (a) A caretaker exempted from work registration shall be a parent or

other household member who is responsible for the care of a dependent child under six, or an incapacitated person. If the child's sixth birthday is within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(b) If a parent and another member of the household both claim to be responsible for the care of the same dependent children or incapacitated adult, the actual responsibility shall be determined by the branch from a discussion with the applicant. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-28 Recipients of unemployment compensation exemption. (a) Persons receiving unemployment insurance benefits (UIB) shall be exempt from work registration.

(b) Persons who have applied for, but who have not yet begun to receive unemployment insurance, shall be exempt from work registration.

(1) The exemption shall apply only if the individuals were required to register for work with the state employment service as part of the unemployment insurance application process.

(2) If the exemption claimed is questionable, the branch shall verify the exemption with the employment service.

(c) If a person's UIB expires or is suspended, the individual shall register for work unless otherwise exempt. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-29 Physically or mentally unfit exemption. (a) A person who is physically or mentally unfit for gainful employment either permanently or temporarily shall be exempt from work registration requirements. A person claiming a temporary disability shall be required to register once the person becomes physically or mentally fit.

(b) If a claim of permanent or temporary disability is questionable, the branch may obtain verification from the following sources:

- (1) Eligibility for and receipt of benefits from SSI, Old Age Assistance (OAA), Aid to the Blind (AB), or Aid to the Permanently and Totally Disabled (APTD), shall be prima facie evidence of unemployability;
- (2) Receipt of disability payments under the Social Security Act, Retirement, Survivors, and Disability Insurance shall be considered proof of disability for purposes of this exemption; and
- (3) Receipt of worker's compensation may indicate temporary disability and exempt an individual from work registration requirements.

(c) Other individuals claiming a disability exemption shall, in the absence of physical evidence, furnish verification which shall substantiate the disability or documentary evidence which shall support the claim. Appropriate verification may consist of:

- (1) Receipt of temporary or permanent disability benefits issued by government or private sources; or
- (2) A statement from a physician, licensed or certified psychologist.

(d) Adequate documentation shall appear in the case file to support the granting of this exemption.

[Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-30 Drug addicts or alcoholics exemption.

(a) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or nonresident basis, shall be exempt from work registration.

(b) If questionable, the regular participation of a drug addict or alcoholic in a drug addiction or alcoholic treatment and rehabilitation program shall be verified through the organization or institution operating the program. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-31 Students exemption. (a) A student enrolled at least half-time in any recognized school including a high school, training program, or institution of higher education shall be exempt from registering for work, provided the student enrolled at least half-time in a institution of higher education has met the eligibility conditions in chapter 17-663, and shall remain exempt during normal periods of class attendance, vacation, and recess.

(b) Persons not enrolled at least half-time or who experience a break in enrollment status due to graduation, expulsion, suspension, or who drop-out, or otherwise do not intend to return to school shall not be considered students for the purpose of qualifying for this exemption.

(c) When information is questionable, the branch shall check with the institution or place of training to determine if the student's hours meet the half-time requirement. Persons enrolled in correspondence courses, where physical attendance is not regularly required, shall not be exempt from work registration. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-32 Fulfilling a work requirement under Title IV of the Social Security Act exemption. (a) A household member subject to and complying with any work requirement under Title IV of the Social Security Act (42 U.S.C. §§630-644), including referral to the job opportunities and basic skills training program (JOBS), shall be exempt from the work registration requirement.

(b) If the exemption claimed is questionable, the branch shall verify the exemption with the agency administering the work requirement. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.7(b)(1), 273.7(k)(2))

§17-684-33 Employed persons exemption. (a) A person who is employed and working a minimum of thirty hours weekly or who receives weekly earnings equal to the federal minimum wage multiplied by thirty hours shall be exempt from work registration.

(b) If a person claims to be exempt by reason of employment of at least thirty hours per week, verification of the amount of income received from employment as set forth in chapter 17-676 shall be sufficient to establish the exemption. If, under the general conditions prevailing in the community, the amount of income is inconsistent with employment of thirty hours per week, and the individual still claims to be employed, in cooperation with the branch, the applicant shall be requested to supply documentary evidence of:

- (1) The existence of an employee-employer relationship; and
- (2) The number of hours worked equivalent to thirty hours per week.

(c) In order to determine whether an individual is employed, the department shall consider whether:

- (1) The wage meets state, local, or federal minimum standards;
- (2) Deductions of required mandatory amounts for federal or state income taxes, or both, have been made by the employer; and
- (3) The employer pays unemployment insurance premiums on behalf of the employee.

(d) Persons engaged in hobbies or volunteer work shall not be considered exempt from work registration regardless of the amount of time spent on the activity.  
[Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-34 Self-employed persons exemption. (a) A person who is self-employed and who works a minimum of thirty hours per week or who receives weekly earnings equal to the federal minimum wage multiplied by thirty hours shall be exempt from registering for work.

(b) Verification of self-employment shall be as follows:

- (1) If a person claims to be exempt by reason of self-employment, verification of the amount of income received from self-employment shall be sufficient to establish the exemption, provided the amount of income appears to be consistent with a conclusion of full-time (thirty hours per week) employment; and

- (2) If the income is not sufficient, and the number of hours worked a week is questionable, the person shall cooperate with the branch in establishing that the volume of work claimed justifies a determination that the self-employment enterprise is a full-time job for the purposes of this exemption. The household shall cooperate in providing adequate documentation to substantiate the claim. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-684-35 Participation of strikers. Strikers shall be subject to the work registration requirement, unless exempted by section 17-684-25. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(j))

§17-684-36 Termination of work registration exemption. (a) Persons losing work registration exemption status due to any change in circumstances that is subject to the reporting requirements as specified in chapter 17-650, shall register for employment when the change is reported. Changes in circumstances include, but are not limited to:

- (1) Loss of employment or loss of UIB that also results in loss of income of more than \$25 a month; or
- (2) Departure from the household of the sole dependent child or death or institutionalization of an incapacitated person.

(b) The following procedures shall be followed for persons who lose exemption status due to any reported change in circumstances that is reported as specified in chapter 17-650:

- (1) If the change is reported in person by the household member required to register, the household member shall complete the work registration form at the time the change is reported. If it is not possible for the member to complete the work registration form at the time the change is reported, the household member shall return the form to the

- branch within ten calendar days from the date the form was given to the household member;
- (2) If the change is reported in person by a household member other than the member required to register, the person reporting the change may complete the form at the time the change is being reported or deliver the form to the member required to register. The person shall inform the member required to register that the form shall be returned to the branch within ten calendar days from the date the form was given to the person;
  - (3) If the change is reported by phone or through the mail, the branch shall provide the household member with a work registration form or the branch may complete the work registration form with information provided by the household. The household member shall be responsible for returning the form to the branch within ten calendar days from the date the branch mailed the form; and
  - (4) If the household fails to return the form, the branch shall issue a notice of adverse action stating that the household is being terminated but that the household can avoid termination by returning the form.
- (c) Persons who lose their exemption due to a change in circumstance that is not subject to the reporting requirements specified in chapter 17-650, shall register for employment at the households next recertification. [Eff 3/19/93; am 2/7/94 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(2))

§17-684-37 Failure to comply with a comparable work requirement under Title IV of the Social Security Act or unemployment compensation. (a) A household containing a member who was exempt from work registration in accordance with sections 17-684-28 and 17-684-32 because the individual was registered for work in any program under Title IV of the Social Security Act, including the job opportunities and basic skills training program (JOBS), or unemployment compensation and who fails to comply with the Title IV or unemployment compensation requirement comparable to a

food stamp work registration or employment and training requirement shall be treated as though the member had failed to comply with the corresponding food stamp requirements.

(b) If the branch learns that a household member has refused or failed without good cause to comply with the Title IV or unemployment compensation requirement, the branch shall determine whether the requirement was comparable.

(c) If the household reports the loss or denial of AFDC or unemployment compensation or if the branch otherwise learns of the loss or denial, the branch shall determine whether the loss or denial was caused by a determination by the administering agency that a household member refused or failed without good cause to comply with the work requirement and, if so, whether the requirement was comparable to the food stamp work registration or job search requirement. The Title IV or unemployment compensation requirement shall not be considered comparable if it places responsibilities on the household which exceed those imposed by the food stamp work registration requirements.

(d) If the branch determines that the requirement is comparable, the individual shall be disqualified as follows:

- (1) The branch shall provide the household with a notice of adverse action within ten days after learning of the household member's noncompliance with the unemployment compensation or Title IV requirement;
- (2) The notice shall comply with the requirements of section 17-684-54 and chapter 17-649; and
- (3) The noncomplying member shall not be disqualified from participation if they meets one of the work registration exemptions provided in section 17-684-25 other than the exemptions for recipients of unemployment compensation or individuals subject to work requirements under Title IV of the Social Security Act.

(e) Household members who fail to comply with a noncomparable Title IV or unemployment compensation requirement shall lose their exemption under section 17-684-25 and shall register for work if required to do so in section 17-684-22.

(f) If the branch determination of noncompliance with comparable Title IV or unemployment compensation work requirement leads to a denial or termination of the household's food stamp benefits, the household has a right to appeal the decision in accordance with section 17-684-54. [Eff 3/19/93; am 10/28/96 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(g)(2); Pub. L. No. 104-193 (1996))

§17-684-38 Department responsibilities. (a) The department shall register for work each household member not exempted in section 17-684-25.

(b) Upon determining that an applicant or member of the applicant's household is required to register, the branch shall:

- (1) Explain to the applicant:
  - (A) The pertinent work requirements;
  - (B) The rights and responsibilities of work registered household members; and
  - (C) The consequences of failure to comply.
- (2) The branch shall provide a written statement as stated in paragraph(1) to each work registrant in the household. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement.
- (3) Provide work registration forms for each household member required to register for employment and assist the household in completing the form for those members required to register.

(c) At the end of the twelve month registration period, the branch shall reregister each household member who is not exempt by completing the appropriate registration form.

(d) Each registration shall be documented in a household's case file. At a minimum, the name of the household member and the date of registration shall be recorded. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(c))

§17-684-39 Additional work requirements. (a) Unless exempt, no individual shall be eligible to

participate in the food stamp program as a member of any household if, during the preceding thirty-six month period, the individual received food stamp benefits at least three months (consecutive or otherwise) during which the individual did not:

- (1) Work twenty hours or more per week (averaged monthly); or
- (2) Participate in and comply with the requirements of a Job Training Partnership Act program, Trade Adjustment Assistance Act program or E & T program (other than a job search or job search training program) for twenty hours or more per week.

(b) An individual is exempt from this work requirement if the individual is:

- (1) Under eighteen or over fifty years of age;
- (2) Medically certified as physically or mentally unfit for employment;
- (3) A parent or other member of a household with responsibility for a dependent child;
- (4) A pregnant woman; or
- (5) Otherwise exempt under section 17-684-25.

(c) Individuals denied eligibility under this section shall regain eligibility to participate in the food stamp program if, during a thirty day period, the individual:

- (1) Works eighty or more hours; or
- (2) Participates in and complies with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or E & T program (other than a job search or job search training program) for eighty or more hours.

(d) An individual who regains eligibility under subsection (c) shall remain eligible as long as the individual meets the requirements of subsection (a). If an individual subsequently loses this employment or ceases to participate in a work program, eligibility shall continue for up to three consecutive months, beginning on the date the individual first notifies the branch that work has ended. In order to cure this ineligibility during the thirty-six month period, the individual must comply with the work requirement or meet one of the exemptions under subsection (b).

Households adversely affected shall be notified in accordance with chapter 17-649.

(e) During the time that an individual is exempt from this work requirement (due to subsections (b) or (c)), any period of participation in the food stamp program does not count toward the individual's three month participation limit. [Eff 10/28/96 ] (Auth: HRS §346-14) (Imp: Pub. L. No. 104-193 (1996))

§§17-684-40 to 17-684-48 (Reserved).

#### SUBCHAPTER 4

##### FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

§17-684-49 Employment and training program. (a) The department shall administer and manage an employment and training program which may consist of the following employment and training components:

- (1) Job search;
- (2) Job search skills training;
- (3) Basic education programs that will improve employability;
- (4) Other community employment and training programs.
- (5) Work experience; and
- (6) Vocational training.

(b) Persons required to register for work and not exempted in section 17-684-25 shall be subject to employment and training program requirements.

(c) If not all nonexempt mandatory registrants can be served because of insufficient funds, registrants will be randomly selected for referral up to the limit the funding can accommodate.

(d) E & T mandatory participants may be referred to one or more or a combination of the components listed in subsection (a), provided the number of hours of participation does not exceed limits as determined by the department designee.

(e) The department shall designate a collateral agency to manage, coordinate, and monitor employment and training requirements established in this subchapter to which E & T mandatory or voluntary

participants shall be referred by the branch. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(c), (f))

§17-684-50 Voluntary participation. (a) The department shall, as it deems practicable, permit persons exempt from the work registration or employment and training requirements to participate in any employment and training program the department offers.

(b) Voluntary participants in an employment and training component shall not be disqualified for failure to comply with employment and training requirements.

(c) The hours of participation or work of a volunteer shall not exceed the hours required of E & T mandatory participants as determined by the department designee. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(f)(4))

§17-684-51 Exemptions from employment and training program. (a) The following work registered individuals or categories of work registrants shall be exempt from employment and training participation:

- (1) Persons who reside in counties or on islands where employment and training components are not offered;
- (2) Pregnant women in the third month or more of pregnancy;
- (3) Persons residing in remote areas of Hawaii, Maui and Kauai counties. The area shall be considered remote when:
  - (A) A round trip of more than two hours by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility, would be required for a normal work or training day; or
  - (B) When normal round trip commuting time in the area is more than two hours, then the round trip commuting time shall not exceed the generally accepted community standards;

- (4) Persons who consistently do not have public or private forms of transportation available to them to the extent that job seeking and placement become impracticable; and
  - (5) Persons considered still job attached. These persons shall have a known or expected date of return to their employment that is within ninety days from their last day of employment.
- (b) Exempt status shall be reviewed at recertification to determine if the exemption is still valid. [Eff 3/19/93; am 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(f)(2))

§17-684-52 Department responsibilities. (a) The branch shall be responsible for screening each work registrant to determine whether or not it is appropriate, based on the department's criteria established in section 17-684-51, to refer the individual to the employment and training program.

(b) The branch shall generate employment and training referrals to the department designee within five working days from the day E & T mandatory status was determined.

(c) The branch shall take the appropriate sanction action as specified in section 17-684-54 within ten working days after being notified of an E & T noncompliance.

(d) The branch shall issue written notification to the department designee within five working days after the branch learns of those work registrants or E & T participants who:

- (1) Become exempt from the work registration requirement;
- (2) Become exempt from employment and training requirements;
- (3) Are no longer certified for participation in the food stamp program;
- (4) Move out of the employment and training project area;
- (5) Change address within the employment and training project area;
- (6) Become employed; or

(7) Are disqualified because of an E & T sanction.

(e) The branch shall allow the department designee five days advance notice to either permit the attendance of a representative at a fair hearing involving noncompliance with employment and training requirements or ensure that a representative will be available for questions over the phone during the hearing. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(f), (g))

§17-684-53 Determining good cause. (a) The department designee shall be responsible for determining good cause in those situations where the work registrant has failed to comply with the employment and training requirements of this subchapter.

(b) The branch shall determine good cause in situations where the applicant or recipient has voluntarily quit a job after obtaining the job through the employment and training program.

(c) In determining whether or not good cause exists, the branch and the department designee shall consider the facts and circumstances, including information submitted by the household member involved and the employer.

(d) Good cause shall include circumstances beyond the household member's control, such as, but not limited to:

- (1) Illness of the household member involved;
- (2) Illness of another household member requiring the presence of the member;
- (3) A household emergency, e.g., a death in the family;
- (4) The unavailability of transportation; or
- (5) The lack of adequate child care for children who have reached age six but are under age twelve. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(m))

§17-684-54 Failure to comply. (a) If the branch is informed by the department designee that a household member other than the head of household has refused or failed without good cause to comply with the require-

ments of this subchapter, that individual shall be ineligible to participate in the food stamp program for two months and shall be treated as an excluded household member as specified in chapters 17-655 and 17-663.

(b) If the head of household as defined in section 17-684-21 fails to comply with the requirements of this subchapter, the entire household shall be ineligible to participate in the food stamp program for two months.

(c) Ineligibility shall continue until the member who caused the violation:

- (1) Complies with the requirement as specified in section 17-684-55;
- (2) Leaves the household;
- (3) Becomes exempt from work registration through exemptions in section 17-684-25 other than referral to a work program under Title IV of the Social Security Act or receipt of UIB; or
- (4) Two months have passed, whichever occurs earlier.

(d) If any household member who failed to comply joins another household as head of household, that entire new household shall be ineligible for the remainder of the disqualification period.

(e) If the member who failed to comply joins another household where that individual is not head of household, the individual shall be ineligible for two months and shall be considered an excluded household member as specified in chapters 17-655 and 17-663.

(f) Within ten days following the department designee's notification to the branch of the registrant's failure to comply with E & T requirements, the branch shall provide the household with a notice of adverse action as specified in chapter 17-649. Such notification shall:

- (1) Contain the particular act of noncompliance committed;
- (2) The proposed period of disqualification;
- (3) That the individual or household may reapply at the end of the disqualification period; and
- (4) Describe the action which can be taken to end or avoid the sanction.

(g) The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

(h) Each individual or household has a right to a fair hearing to appeal:

- (1) A denial, reduction, or termination of benefits due to a determination of nonexempt status;
- (2) A determination of failure to comply with the work registration or employment and training requirements of this chapter;
- (3) The type of requirement imposed; or
- (4) A refusal by the branch or the department designee to make a finding of good cause.

(i) If a fair hearing is scheduled, the branch shall provide the department designee with sufficient advance notice to allow the attendance of a representative or ensure that a representative will be available for questioning over the phone during the hearing.

(j) A household shall be allowed to examine its' employment and training case file at a reasonable time before the date of the fair hearing, except for confidential information that the branch determines should be protected from release. Information not released to a household may not be used by either party at the hearing.

(k) The results of the fair hearing shall be binding on the branch and the department designee.  
[Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(g))

§17-684-55 Ending disqualification. (a) Following the end of the two month disqualification period for noncompliance with the work registration or employment and training requirements, participation may resume if a disqualified individual or household applies again and is determined eligible.

(b) Eligibility may be reestablished during a disqualification period and the household or individual shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification either:

- (1) Becomes exempt from the work registration requirement for reasons other than referral

to a work program under Title IV of the Social Security Act in section 17-684-32 or receipt or application for UIB in section 17-684-28;

- (2) Is no longer a member of the household; or
- (3) Complies as follows:
  - (A) If the person failed or refused to register for work with the department, the person complies by registering.
  - (B) If the person failed or refused to respond to a request from the branch or the departmental designee for supplemental information regarding employment status or availability for work, the person complies with the request.
  - (C) If the person failed or refused to report to an employer to whom referred, the person must report to that employer, if work is still available, or to another employer to whom the person is referred.
  - (D) If the person failed or refused to accept a bona fide offer of suitable employment to which the person was referred, the person must accept the employment if it is still available, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least thirty hours per week, or secure employment of less than thirty hours per week but with weekly earnings equal to the federal minimum wage multiplied by thirty hours.
  - (E) If the person failed or refused to attend a scheduled employment and training assessment interview, the person attends an assessment interview.
  - (F) If the person failed or refused to attend a scheduled follow-up interview, the person attends a scheduled follow-up interview.
  - (G) If a person failed or refused to participate in an assigned E & T component, the person participates in

that component, or participates in another component to which the person is referred.

- (H) If the person failed or refused to complete job search activities, the person completes the job search requirements.
- (I) If the person failed to meet the minimum attendance requirements of an E & T assigned component, the person repeats the E & T component.
- (J) If the person failed to receive a passing grade or certificate of achievement in assigned component, the person repeats the component or participates in another E & T component to which referred. [Eff 3/19/93 ]  
(Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(h))

§17-684-56 Unsuitable employment. (a) Any employment shall be considered unsuitable if the wage offered is less than the highest of:

- (1) The applicable federal minimum wage;
- (2) The applicable state minimum wage;
- (3) Eighty per cent of the federal minimum wage, if neither the federal nor the state minimum wage is applicable.

(b) Employment shall be considered unsuitable if the employment offered is on a piece-rate and the average hourly yield the employee may reasonably be expected to earn is less than the applicable hourly wage specified above.

(c) If the household member, as a condition of employment or continuing employment, is required to join, resign, or refrain from joining any legitimate labor organization, the employment shall be unsuitable.

(d) Employment shall be considered unsuitable where the work offered is at a site subject to a strike or a lockout at the time of the offer unless the strike has been enjoined under section 208 of the Labor-Management Relations Act (29 U.S.C. §178) or an injunction has been issued under section 10 of the Railway Labor Act (45 U.S.C. §160).

(e) Employment shall be considered unsuitable if the household member involved can demonstrate or the branch otherwise becomes aware that:

- (1) The degree of risk to health and safety is unreasonable;
- (2) The household member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources;
- (3) The employment offered within the first thirty days of registration is not in the household member's major field of experience;
- (4) The distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of commuting. Daily commuting time shall not exceed two hours per day, not including the transportation of a child to and from a child care facility. Nor shall employment be considered suitable if the distance to the place of employment prohibits walking, and both public and private transportation are unavailable to use in getting to the job site; or
- (5) The working hours or nature of the employment interferes with the household member's religious observances, convictions, or beliefs. [Eff 3/19/93 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(i))

## SUBCHAPTER 5

### E&T/JOBS CONFORMANCE DEMONSTRATION PROJECT

§17-684-57 Purpose. (a) The purpose of the Employment and Training/Job Opportunities and Basic Skills Conformance Demonstration Project, also known as the E&T/JOBS Demo Project, is to improve consistency and coordination between the employment and training programs administered by the department. It is anticipated that improved consistency and coordination will result in:

- (1) Enhancing current E&T services through use of a case management system, expanding educational activities, and adding barrier removal services, support services, and community work experience;
- (2) Providing comprehensive services designed to improve individual and family functioning;
- (3) Overall fairness between the programs by offering food stamp recipients the same realistic and meaningful opportunities to achieve self-sufficiency; and
- (4) A decrease in program errors previously caused by conflicting program requirements.

(b) The E&T/JOBS Demo Project will be in operation only on the island of Oahu. All references to the E&T/JOBS Demo Project policies are effective from the date of implementation through September 30, 1996, or unless extended by an act of Congress or a directive from the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) and may, in total or in part, be voided if the rules are not extended by the expiration date. [Eff 2/07/94 ]  
(Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-58 Definitions. As used in this subchapter:

"Activity" means a structured regularly scheduled program activity for E&T/JOBS participants, including intake and orientation activities.

"Administrative hearing or fair hearing" means an administrative proceeding which afford an aggrieved person an opportunity to present an appeal before an impartial departmental representative for formal decision.

"Component" means the education, training and job placement programs and services available through the E&T/JOBS Demo Project.

"E&T/JOBS pool" means non-exempt and exempt volunteer food stamp recipients awaiting selection into the E&T/JOBS Demo Project.

"Full-time student" means a person enrolled in a public or private elementary or secondary school or in a program of an equivalent level of vocational or technical training.

"Mandatory participant or nonexempt individual" means a food stamp applicant or recipient who is required to participate in the E&T/JOBS Conformance Demonstration Project.

"Voluntary participant" means a mandatory or exempt food stamp applicant or recipient who volunteers to participate in the E&T/JOBS Demo Project.

[Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-59 Participation requirement. (a) All applicants and recipients of the food stamp program residing on the island of Oahu shall be required to participate in the E&T/JOBS Demo Project unless exempt under section 17-684-60.

(b) All individuals shall be allowed the opportunity to participate in the E&T/JOBS Demo Project on a voluntary basis.

(c) The department shall give first consideration to volunteers in determining the priority of participation within the target populations established by the E&T/JOBS Demo Project.

(d) The E&T/JOBS Demo Project shall accept referrals for participation as follows:

- (1) Applicants applying for the food stamp program;
- (2) Recipients shall be referred at the time of their annual eligibility redetermination, or at any time a change in the individual's circumstance results in the individual being required to participate in the E&T/JOBS project; and
- (3) A voluntary participant may request referral at any time.

(e) The mandatory and exempt participants who volunteer for participation shall be referred to the E&T/JOBS pool for selection by the E&T/JOBS Demo Project staff.

(f) Individuals who are either mandatory participants of the AFDC JOBS program or who have volunteered for that program shall not be referred to the E&T/JOBS Demo Project. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-60 Exemption from participation. (a)  
The department shall determine which food stamp applicants and recipients are exempt from participating in the E&T/JOBS Demo Project.

(b) An individual shall be exempt from participation in the E&T/JOBS Demo Project when the individual is:

- (1) A parent or caretaker relative under sixteen years of age;
- (2) A dependent child under sixteen years of age;
- (3) A dependent child sixteen years of age or older who is a full time student (except that such school attendance as a required E&T/JOBS activity for a child who loses this exemption will not requalify the child for the exemption);
- (4) Ill, when determined by the department on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training;
- (5) Incapacitated, when verified by the department that a physical or mental impairment, determined by a physician or a licensed or certified psychologist, prevents the individual from engaging in employment or training under E&T/JOBS. This includes a period of recuperation after childbirth if prescribed by the individual's physician;
- (6) Sixty years of age or older;
- (7) Needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a physician or a licensed or certified psychologist and no other appropriate member of the household is available to provide the needed care;
- (8) Working thirty or more hours a week at the time the department makes the initial determination;
- (9) Pregnant from the second trimester or later, which has been medically verified by a licensed physician or community health

- facility with the estimated date of confinement (EDC date);
- (10) The parent or other relative of a child under three years of age who is personally providing care for the child.
- (A) If a parent and another member of the household both claim to be responsible for the care of the same dependent children, the actual responsibility shall be determined by the department from a discussion with the applicant; and
- (B) This exemption shall not apply to a custodial parent required to participate in an educational component under section 17-684-61;
- (11) The parent or other relative personally providing care for a child under six years of age unless the department's E&T/JOBS Demo Project staff assures that child care shall be guaranteed and that participation in the E&T/JOBS Demo Project shall not be required for more than twenty hours per week. This exemption shall not apply to a custodial parent required to participate in an educational component under section 17-684-61;
- (12) A full time volunteer serving under the Volunteers in Service to America (VISTA) program; or
- (13) Subject to and complying with any work requirement under Title IV of the Social Security Act (42 U.S.C. §§630-644), including referral to the job opportunities and basic skills training program (JOBS).
- (c) An individual shall be considered a mandatory participant when the individual fails to cooperate in the exemption determination process or to provide the necessary verification to support the exemption claimed.
- (d) The department shall reevaluate any exemption at such time as the condition is expected to end but no less frequently than at each annual eligibility redetermination.

(e) The department shall inform the individual of any change in the individual's exemption status.

(f) Individuals who are determined exempt shall be allowed the opportunity to participate in the E&T/JOBS Demo Project on a voluntary basis.

(g) When an individual who is determined to be a mandatory participant accepts employment of thirty or more hours per week, the individual shall remain a mandatory participant. The employment shall be an E&T/JOBS activity. [Eff 2/07/94; am 12/18/95 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-61 Participation requirement for education. (a) A custodial parent under twenty years of age who has not completed high school or an equivalent course of education shall be required to participate in educational activities prescribed by the E&T/JOBS Demo Project.

(b) A custodial parent means the parent who lives with the child, including custodial parents who would otherwise be exempt under section 17-684-60(b)(11) and (12) because of the age of the youngest child.

(c) The custodial parent may claim an exemption from participation under section 17-684-60(b) except the exemptions specified in section 17-684-60(b)(11) and (12).

(d) The staff of the E&T/JOBS Demo Project shall administer the educational component and shall have the authority to:

- (1) Require full time participation, as defined by the educational provider, in educational activities directed toward the attainment of a high school diploma or its equivalent. This includes individuals who would otherwise only have to participate on a part-time basis because their youngest child is under six years of age;
- (2) Excuse a custodial parent who is under age eighteen years from the school attendance requirement when such parent is determined to be beyond the state's compulsory attendance requirements; and
- (3) Require a custodial parent who is age eighteen or nineteen years to participate in

training or work activities subject to the twenty hour limit on participation specified in section 17-684-60(b)(12).

(e) When the department requires an individual who has attained the age of eighteen years or older and has not earned a high school diploma or its equivalent to participate in the E&T/JOBS Demo Project, the department shall include educational activities consistent with the individual's employment goals as a component in the individual's employment plan. The individual shall be exempt from participation in educational activities when:

- (1) The individual demonstrates a basic literacy level of grade 8.9 or above; or
- (2) The long-term employment goal of the individual, as identified in the employment plan, does not require a high school diploma or its equivalent.

(f) The E&T/JOBS Demo Project may require a parent to participate in an educational activity below the post secondary level when the parent:

- (1) Is under the age of twenty-five years; and
- (2) Has not completed high school or an equivalent course of education. [Eff 2/07/94] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-62 Self-initiated education or training.

(a) When a mandatory participant of the E&T/JOBS Demo Project has self-initiated an education or training program, that participant may be permitted to continue that activity if the assessment by the E&T/JOBS Demo Project staff has deemed it appropriate as an acceptable E&T/JOBS activity.

(b) An acceptable self-initiated education or training activity is when:

- (1) The participant is attending a postsecondary institution at least half-time as defined by the institution;
- (2) The participant is making satisfactory progress in such institution, school, or course;
- (3) The course of study is consistent with the individual's employment goal; and

- (4) The participant meets the department's criteria for determining the appropriateness of the self-initiated education or training.
- (c) The department shall conduct an assessment and develop an employability plan to determine the appropriateness of the education or training in accordance with the criteria it has established.
- (d) If the department approves the self-initiated education or training activity, any other E&T/JOBS activities in which such individual participates may not be permitted to interfere with the education or training activity. However, an individual may be required to accept employment after a review of her employability plan, if the department has informed the participant at the time it first approves the self-initiated activity that it could perform such a review and reassignment.
- (e) Participants in approved self-initiated education and training activities shall be eligible for child care, transportation, and other supportive services provided by the E&T/JOBS Demo Project. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-63 Good cause determination. (a) Prior to imposing a sanction under section 17-684-64, the department shall determine whether there was good cause for the individual to:

- (1) Refuse or fail to participate in the E&T/JOBS Demo Project;
  - (2) Refuse to accept employment;
  - (3) Terminate employment; or
  - (4) Reduce earned income.
- (b) The department shall make a determination that good cause exists when:
- (1) The individual is a parent or other relative personally providing care for a child under age six years and the employment would require such individual to work more than twenty hours a week;
  - (2) Child care or day care for any incapacitated individual living in the same home is necessary for the individual to participate or continue participation in the E&T/JOBS

Demo Project or accept employment and such care is not available; or

- (3) The employment would result in the family or the participant experiencing a net loss of cash income. Net loss of cash income shall be determined as follows:
  - (A) The department shall determine the family's total gross income, which includes, but is not limited to, the anticipated earnings from the new employment, and any other earned or unearned income, and cash assistance that the family is receiving;
  - (B) The department shall determine the total amount of the necessary work-related expenses which includes, but is not limited to, mandatory payroll deductions, actual cost of child care, transportation expenses, and cost of meals;
  - (C) The necessary work-related expenses shall be deducted from the family's total gross income;
  - (D) The department shall determine the family's actual net income at the time the offer of employment is made in the same manner as stated in subparagraphs (A) through (C);
  - (E) The net income amount determined in subparagraph (C) shall be compared to the net income computed in subparagraph (D); and
  - (F) The department shall determine that there is a net loss of cash income when the net income amount determined in subparagraph (C) is less than the net income determined in subparagraph (D).
- (c) The department shall consider other circumstances beyond the individual's control in determining whether there was good cause. Examples of circumstances beyond the individual's control include, but shall not be limited to:
  - (1) Illness of the individual which is verified by a medical statement from a licensed physician or psychologist;

- (2) The individual's presence is required on a continual basis due to the illness of another family member and is verified by a medical statement from a licensed physician or psychologist;
- (3) The individual is experiencing a family crisis or change of individual or family circumstances, such as death of an immediate family member, the family is currently homeless, or the family experienced a natural disaster;
- (4) Wages are below the state statutory minimum wage;
- (5) The working conditions would adversely affect or endanger the health and safety of the individual;
- (6) The conditions of employment violate state laws related to:
  - (A) Providing temporary disability insurance, worker's compensation, or health care benefits;
  - (B) Providing wages due on a timely basis; or
  - (C) Discriminatory practices;
- (7) The employment or E&T/JOB component is beyond the individual's ability or there is a psychological or physical reason for the individual not being able to perform satisfactorily in the component or on the job;
- (8) Acceptance of an offer of employment that did not materialize;
- (9) Daily commuting time exceeds two hours per day or if normal commuting time is greater than two hours per day, the time exceeds the acceptable commuting standard by public or private means, whichever is available to the individual. The time spent in transporting dependents to a day care facility site shall not be considered;
- (10) Self-employment that did not produce income equivalent to thirty hours of employment at the state minimum wage after business expenses are deducted;

- (11) The individual's assignment in the E&T/JOBS Demo Project was not within the scope of the employment plan developed between the individual and the department;
- (12) There is a breakdown in transportation arrangements with no ready access to alternate transportation that will allow total commuting time as specified in paragraph (9);
- (13) An individual's participation in a E&T/JOBS component would interfere with the participant's unsubsidized employment;
- (14) The individual was required to participate in the E&T/JOBS component or work more hours than the maximum hours determined appropriate for the individual;
- (15) Acceptance of employment or participation in an E&T/JOBS component would result in the individual violating the individual's religious beliefs;
- (16) Acceptance of employment, training, or education would require the individual to go to a site involved in a labor dispute. For example, there is a concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees; or
- (17) The individual ends a sporadic work relationship that does not offer a reasonable possibility for permanent full time employment and the individual is available to work full time.

(d) When an exempt individual stops participating without good cause, the individual shall not be given priority to participate when there are other volunteers seeking to participate. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-64 Sanctions. (a) When an individual who is required to participate in the E&T/JOBS Demo Project fails or refuses without good cause to participate in the E&T/JOBS Demo Project, refuses

without good cause to accept employment, terminates employment without good cause, or reduces earnings without good cause, that individual shall be disqualified from the food stamp program. The disqualified individual shall be sanctioned as follows:

- (1) For the first such failure to comply, until the failure to comply ceases;
- (2) For the second such failure to comply, until the failure to comply ceases, or three months, whichever is longer; and
- (3) For any subsequent failure to comply, until the failure to comply ceases, or six months, whichever is longer.

(b) Failure to participate in the E&T/JOBS Demo Project includes failure to meet the requirements for intake, orientation, assessment, employability development planning, or case management.

(c) For the purpose of determining that an individual's failure to comply has ceased, the individual shall be required to participate in the activity to which the individual was previously assigned or an activity designed by the department's E&T/JOBS Demo Project staff to lead to full participation as follows:

- (1) When the activity is the intake or orientation component, the individual shall complete the activity;
- (2) When the activity is an assessment or case manager interview, the individual shall attend the interview;
- (3) When the activity is related to a training, education, or work experience component, the individual shall participate in the component for five days within a two week period;
- (4) When the activity is designed by the department's E&T/JOBS Demo Project staff, the individual shall participate in the activity for the duration of the activity or five days within a two week period, whichever is less; or
- (5) When the activity is related to accepting employment, the individual shall accept employment.

(d) When the E&T/JOBS Demo Project staff determines there is no appropriate activity available,

the sanction shall end on the day the individual agrees to participate. The sanctioned individual shall be added into the food stamp household in accordance with section 17-680-34.

(e) During the participation periods described in subsection (c), the individual shall be eligible for child care and support services which the department determines are necessary for participation.

(f) When the individual successfully participates in a component described in subsection (c), the sanction shall terminate as of the day the individual agreed to participate. The sanctioned individual shall be added into the food stamp household in accordance with section 17-680-34.

(g) When an individual is sanctioned, the department shall not consider the individual's needs in determining the household's eligibility and shall be treated in accordance with section 17-663-80.

(h) The department shall issue a notice to any individual whose failure or refusal has continued for three months of the individual's option to end the sanction. The notice shall advise the individual that the individual may:

- (1) Immediately terminate the first or second sanction by participating in the E&T/JOBS Demo Project or accepting employment; and
- (2) Terminate any subsequent sanction after six months have elapsed by participating in the E&T/JOBS Demo Project or accepting employment. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-65 Administrative hearing. (a) The department shall provide the individual the opportunity to request an administrative hearing to contest a proposed sanction that will result in a suspension, reduction, discontinuance, or termination of food stamp assistance.

(b) The provisions of chapter 17-602.1 shall apply. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-66 Treatment of child care and work-related supportive service payments. The child care and work-related supportive service payments received by the household from the E&T/JOBS Demo Project shall be disregarded in determining the household's eligibility and the amount of food stamp assistance payment. [Eff 2/07/94 ] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-67 Providing program information to applicants and recipients. (a) The department shall provide the following information, in writing, to applicants at the time of application and to recipients at the time of the annual eligibility redetermination:

- (1) E&T/JOBS Demo Project components and activities;
- (2) Supportive services and payments available;
- (3) The department and participant responsibilities, including the rights and obligations of the participant; and
- (4) Types of child care available and assistance to be provided in securing appropriate child care services.

(b) Within one month of the determination of eligibility or completion of an annual eligibility redetermination, the department shall notify individuals of the opportunity to volunteer for the E&T/JOBS Demo Project.

(c) A mandatory participant shall be required to participate in the E&T/JOBS Demo Project prior to the expiration of the one month period specified in subsection (b).

(d) When a mandatory participant does not request participation, the department shall continue to require the individual's mandatory participation. [Eff 2/7/94] (Auth: HRS §346-14) (Imp: 7 U.S.C. §§2011-2032)

§17-684-68 Failure to comply with a comparable work requirement under Title IV of the Social Security Act. (a) A household containing a member who was exempt from work registration in accordance with section 17-684-60 because the individual was registered for work in a program under Title IV of the Social

Security Act, including the job opportunities and basic skills training program (JOBS) and who fails to comply with the Title IV requirement that is comparable to the E&T/JOBS Demo Project shall be treated as though the member had failed to comply with the corresponding food stamp requirement.

(b) If the branch learns that a household member has refused or failed without good cause to comply with the Title IV requirement, the branch shall determine whether the requirement was comparable. The Title IV requirement shall not be considered comparable if it places responsibilities on the household which exceed those imposed by the E&T/JOBS Demo Project requirements.

(c) If the branch determines that the requirement is comparable, only the individual who committed the violation shall be disqualified as follows:

- (1) The branch shall provide the household with a notice of adverse action within ten days after learning of the household member's noncompliance with the Title IV requirement;
- (2) The notice shall comply with the requirements of section 17-684-64 and chapter 17-649; and
- (3) A household shall not be disqualified from participation if the noncomplying member can show good cause for noncompliance with the work requirements in accordance with sections 17-684-6 or 17-684-63.

(d) If the branch's determination of non-compliance with comparable Title IV work requirement leads to a denial or termination of the household's food stamp benefits, the household has a right to appeal the decision in accordance with section 17-684-65.

(e) A disqualified household may resume participation if the FSP in accordance with section 17-684-64. [Eff 12/18/95 ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(g)(2))